



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 24741-1521

DEP & REF
Room 307
#221 Reg for
Refund
05-03-03

Applicant(s) Bernd GRONER *et al.*

Appl. No.: 09/596,774

Examiner: K. Canella

Filing Date: June 19, 2000

Art Unit: 1642

Title: BIFUNCTIONAL PROTEIN, PREPARATION AND USE

REQUEST FOR REFUND

Commissioner for Patents
Washington, D.C. 20231

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Sir:

In accordance with MPEP 706.07(f), when a Response to a Final Rejection is filed within two months from the mailing date and the USPTO does not mail an advisory Action until after the end of the three month period set for response, the due date is automatically shifted until the USPTO mails the Advisory Action or the six month period expires, whichever happens first.

The USPTO mailed a Final Rejection on July 30, 2002, setting a three month shortened statutory period for response. Applicants filed a response on September 25, 2002. The USPTO mailed an Advisory Action on January 28, 2003, which was received January 31, 2003. However, the last date for filing a Notice of Appeal was January 30, 2003 because Applicants must respond within six months.

Applicants filed a Notice of Appeal on January 29, 2003, to maintain the pendency of this application. In order to ensure that the USPTO would not reject the Notice of Appeal, Applicants filed a Petition for a three month Extension of Time and paid the appropriate government fees.

Since Applicants' first reply to the Final Office Action was filed within two months of the mailing date of that action, and the Advisory Action was not mailed within three months of that date, the three month shortened statutory period for reply set in the Final Office Action should be vacated and reset to expire as of the mailing date of the Advisory Action. Any extension fee required pursuant to 37 CFR 1.117 should be calculated from the mailing date of the Advisory

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Action. The due date was automatically shifted until January 28, 2003; therefore, Applicants respectfully submit that a one month Extension of Time was required, and a refund of \$820 in USPTO fees is respectfully requested.

The USPTO is accordingly requested to make a refund to Deposit Account No. 08-1641 in the amount of \$820.00, referencing our client matter # 24742-1521. This paper is being submitted in duplicate for the convenience of the Finance Branch.

Respectfully submitted,

February 10, 2003
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